

CHAPTER 120

ADMINISTRATION

Authority

N.J.S.A. 30:1-9 et seq., 30:1-12, 30:4C-4,
26a and 49 and 52:14B-4(b).

Source and Effective Date

R.2001 d.238, effective June 20, 2001.
See: 33 N.J.R. 358(b), 33 N.J.R. 2505(c).

Executive Order No. 66(1978) Expiration Date

Chapter 120, Administration, expires on June 20, 2006.

Chapter Historical Note

Chapter 120, Administration, was adopted as R.1972 d.97, effective May 22, 1972. See: 4 N.J.R. 126(c).

Pursuant to Executive Order No. 66(1978), Chapter 120, Administration, was readopted as R.1983 d.442, effective September 26, 1983. See: 15 N.J.R. 1340(a), 15 N.J.R. 1769(a). Pursuant to Executive Order No. 66(1978), Chapter 120, Administration, expired on September 26, 1988.

Chapter 120, Administration, was adopted as new rules by R.1989 d.300, effective August 21, 1989. See: 20 N.J.R. 2742(a), 21 N.J.R. 2513(b).

Pursuant to Executive Order No. 66(1978), Chapter 120, Administration, was readopted as R.1991 d.397, effective July 9, 1991. See: 23 N.J.R. 1658(a), 23 N.J.R. 2309(a).

Pursuant to Executive Order No. 66(1978), Chapter 120, Administration, was readopted as R.1996 d.238, effective July 5, 1996. See: 28 N.J.R. 1590(a), 28 N.J.R. 3791(a).

Subchapter 1, Organization of the Division of Youth and Family Services, was repealed and Subchapter 1, Organization of the Division of Youth and Family Services, was adopted as new rules, Subchapter 2, Administrative Hearings, was repealed, and Subchapter 3, Fair Hearing Guidelines, was recodified as Subchapter 2, Hearings, by R.1999 d.266, effective August 16, 1999. See: 31 N.J.R. 1055(a), 31 N.J.R. 2402(a).

Pursuant to Executive Order No. 66(1978), Chapter 120, Administration, was readopted as R.2001 d.238, effective June 20, 2001. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 3. (RESERVED)

SUBCHAPTER 1. ORGANIZATION OF THE DIVISION OF YOUTH AND FAMILY SERVICES

10:120-1.1 Organization

(a) In addition to its Central Office that is administrative in nature, the Division of Youth and Family Services (DYFS) has Regional Offices that are also administrative; Adoption Resource Centers that place children for adoption; a centralized screening system that accepts referrals of child abuse and neglect in institutional settings; Institutional Abuse Investigation Units that investigate allegations of child abuse and neglect in institutions such as schools and residential facilities, as well as foster homes; District Offices that accept referrals and investigate allegations of child abuse or neglect and family problems, as well as provide family support, prevention and reunification services; a centralized screening system that accepts referrals of child abuse and neglect in homes outside of regular office hours; and residential treatment centers, that treat seriously emotionally disturbed youths.

(b) To report suspected incidents of child abuse or to request services for themselves or others, the public may contact the District Office or Adoption Resource Center in their area using the blue pages, State government section, of the telephone book to locate the local Division office. The public may obtain information about the Division or make general submissions or requests by writing to:

Division of Youth and Family Services
PO Box 717
Trenton, New Jersey 08625-0717

Case Notes

Foster parent liability program was quasi-legislative initiative of Division of Youth and Family Services (DYFS) that had to be established by administrative rules promulgated under Administrative Procedures Act. *Scott v. State*, 265 N.J.Super. 591, 628 A.2d 379 (A.D. 1993).

Foster parent's continuation of her duties after receipt of brochure resulted in unilateral contract that required indemnification of foster parent. *Scott v. State*, 265 N.J.Super. 591, 628 A.2d 379 (A.D.1993).

Lack of final administrative decision did not prevent foster parent from bringing contract action against state for indemnification. *Scott v. State*, 265 N.J.Super. 591, 628 A.2d 379 (A.D.1993).

SUBCHAPTER 2. HEARINGS

10:120-2.1 Right to hearings

(a) The following applicants and recipients are entitled to request and have a hearing in the manner established by this subchapter when the service provider has made a decision or action or has failed to act in a way which meets the conditions outlined in (b) below:

1. Applicants and recipients of a social service rendered by a provider under contract with the Division; and

2. Applicants and recipients of a social service provided through a county welfare agency and which is funded by the Federal Social Services Block Grant program of the Social Security Act.

(b) A hearing shall be available in the following circumstances:

1. Any service provider action, or failure to act with reasonable promptness, on a request for services, which includes undue delay in reaching a decision on eligibility or in the provision of services;

2. Any service provider decision regarding eligibility for services in both initial and subsequent determinations; and

3. Any service provider action resulting in a termination, suspension or reduction of services.

(c) The availability of a local administrative review shall be in addition to and independent of the right to a hearing.

(d) The right to a hearing shall not extend to cases where there is:

1. A change in the placement of a child without constituting a reduction of social services;

2. An across-the-board service termination, suspension or reduction as a result of a reduction in funding from the Division; or

3. A Division action, rather than an action or inaction of the service provider. In cases of a Division action, due process is available as specified in N.J.A.C. 10:120A.

Amended by R.1999 d.266, effective August 16, 1999.

See: 31 N.J.R. 1055(a), 31 N.J.R. 2402(a).

Rewrote the section.

Amended by R.2001 d.238, effective July 16, 2001.

See: 33 N.J.R. 358(b), 33 N.J.R. 2505(c).

Rewrote (a): in (b), substituted "service" for "contract" throughout; inserted a new (c); recodified former (c) as (d) and substituted "service" for "contract" in (d)3.

10:120-2.2 Notification of right to a hearing

(a) All notifications of service provider decisions shall state in clear, simple language the nature of the decision, the effective date of the decision, and the factual and legal basis for the decision, including if the decision is based on an across-the-board service termination, suspension or reduction as a result of a reduction in funding from the Division. In adverse decisions, the notifications shall include, as a basis for the service provider's action, one or more of the following references:

1. Statutory basis;
2. Regulatory reference or citation;
3. State plan (including budgetary provisions);
4. Social service transmittal; or
5. Policy memorandum.

(b) Proper notice to a client shall be timely and adequate.

1. Where the decision relates to any action which may entitle a client to a hearing, action may not be implemented until 10 days after the mailing of the notice of intent to suspend, reduce or terminate services.

2. Adequate means the notice must be written to include: a statement of the proposed service provider's action, the reason for the service provider's action and the specific reference supporting the service provider's action; a statement explaining the client's right to a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 and 52:14F-1, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1; and an explanation that services shall not continue until the date of the hearing except in the circumstances stated in N.J.A.C. 10:120-2.5 (b)1.

(c) The service provider may dispense with timely notice, but shall send adequate notice no later than the date of action when:

1. The service provider has factual information confirming the death of the client;

2. The service provider received an oral or clearly written statement signed by the client that he or she no longer wishes services or that he or she gives information which requires termination, suspension or reduction of services and the client has indicated in writing that he or she understands that this must be the consequence of supplying such information;

3. The client's whereabouts is unknown and mail from the service provider directed to the client has been returned by the post office indicating no known forwarding address, or home visits have been made and documentation obtained that the client no longer resides there;

4. The client has been accepted for service in a new jurisdiction and that fact has been established by the jurisdiction previously providing services;

5. A special service which is provided for a specific period of time is terminated and the client has been informed in writing at the time of service initiation that the service shall automatically terminate at the end of the specified period; or

6. The client's behavior creates a threat of harm to himself or herself or others.

Amended by R.1999 d.266, effective August 16, 1999.

See: 31 N.J.R. 1055(a), 31 N.J.R. 2402(a).